

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Suits – Settlement of Arbitration Award for an amount of Rs.30.00 lakhs in respect of the work “Excavation of Srisailem Right Branch Canal from K.M.5.00 to K.M.6.00 in all soils and Nandyal Shales of SRBC Circle No.I, Nandyal” awarded to Sri K.S.Mohan Reddy, Contractor under Agt. No.35 SE/84-85, dated 25-01-1985 – Sanction – Orders – Issued.

IRRIGATION & C.A.D. (ARB.) DEPARTMENT.

G.O.(Ms.) No. 221

Dated the 25th July, 2009.

Read the following:-

1. From Sri K.S.Mohan Reddy, Repn. Dt. 25-06-2008.
2. From the Learned Advocate-General, High Court of Andhra Pradesh, Hyderabad, Lr.No.998/2008, dated 25-09-2008.
3. From the C.E.(P), Irrigation, Kurnool, Lr.No.CE(P)/KNL/NDL/DEE3/SRBC Arbitration/310, dated 06-11-2008.
4. Govt.Memo.No.21589/ARB/08, I & CAD (ARB) Dept. dt. 21-11-2008.
5. From the ENC (Med.Irrgn.), Hyd., Lr.No.ENC/Med/DCE III/OT1/ARB-13/2008, dt.31-01-2009 & 16-03-2009.

--::--

O R D E R:

Sri K.S. Mohan Reddy, Contractor in the reference first read above, has stated that he had entered into an agreement with the State of A.P. represented by the Superintending Engineer, SRBC Circle No.1, Nandyal, Kurnool District, for execution of the work “Excavation of Srisailem Right Branch Canal from KM 5.00 to KM 6.00 in all soils and Nandyal Shales of SRBC Circle No.I, Nandyal”. The work could not be completed within the stipulated time and the Department granted extension of time and by that date the work was completed in all respects. He has also stated that during the execution of works, he raised certain Claims and the Department did not settle the said claims. He has filed O.P.No.3 of 1992 on the file of the Subordinate Judge Court, Nandyal, to refer his claims in respect of the subject work to the Sole Arbitrator. The Hon’ble Court in its order dated 26-08-1993 has referred the matter to Sole Arbitrator viz. Justice P.A.Chowdary. The Sole Arbitrator after enquiry passed his award on 09-01-1995, and has also filed an application u/s.17 of the Arbitration Act requesting to make the award rule of Court. The O.P. was transferred to the Sr. Civil Judge, Nandikotkur, as per the directions of the District Judge, Kurnool and re-numbered as O.P.No.1 of 1998 and I.A.No.6 of 1998. The Learned Sr.Civil Judge, Nandikotkur, after elaborate trial passed a Decree and Judgment in his favour on 12-02-1999 making the award Rule of Court, directing the Department to pay an amount of Rs.38,79,090-00 in respect of the Claims of the contractor or with interest @ 18% per annum from 01-11-1991 till the date of Decree. He has further stated that he has filed E.P.No.73 of 1999. Aggrieved by this, the Dept. preferred C.R.P.No.2553 of 1999 before the Hon’ble High Court of A.P., for grant of stay on Extension of E.P.No.73/1999. The Hon’ble High Court while granting interim stay, directed the Department to deposit a sum of Rs 45.00 lakhs within a period of (3) months. Thereafter, the matter is pending disposal before the Hon’ble High Court of A.P. He has therefore, requested the Government to refer his case to the committee of negotiations so as it would facilitate him to participate in the Conciliation process initiated by the Government.

P.T.O.

2. The Learned Advocate-General, High Court of Andhra Pradesh, Hyderabad in the letter second read above, has stated that on 19-09-2008, the Advocate appearing for the Contractor in the subject matter, served a letter to him expressing his intention to settle the matter outside the Court. Along with the said letter the representation of the contractor dated 25-06-2008 made to the Govt. for out of Court settlement is also enclosed thereto. In fact when the matter came up for hearing on 02-09-2008, the Division Bench was also informed by the Advocate for the contractor that they are agreeable for settlement outside the court. Though there is no specific order directing the Govt. to settle the matter outside the Court, it is always open for the Government to negotiate with the contractor and settle the same by inviting him for conciliation. The A.G, A.P, therefore, has suggested that in view of the representation made by the contractor, he may be called for negotiation and make an attempt for an amicable settlement. If conciliation fails, the matter will be argued on merits.

3. In the Govt.Memo. fourth read above, based on the suggestion of the Learned Advocate-General, High Court of A.P., Hyderabad and as per the report of the Chief Engineer, (Projects), Kurnool, the matter has been referred to the conciliation Committee for Rayalaseema Region for amicable settlement of the case.

4. The Engineer-in-Chief, Med.Irrgn., Hyderabad in the letter 5th read above, has furnished the report of the Conciliation Committee for Rayalaseema Region, wherein, the Committee in its report dated 31-01-2009, after the negotiation with the Contractor, has recommended for an amount of Rs. 31,30,746/- as full and final settlement of the case.

5. Based on the suggestion tendered by the Learned Advocate General, High Court, the Principal Secretary to Govt. I & CAD Dept. has conducted final conciliation with the contractor on 12-03-2009 and the contractor has finally agreed for an amount of Rs.30,00,000/- as full and final settlement towards the subject work. Accordingly, the ENC Med. Irrgn., Hyd. has obtained and furnished a notarized affidavit from the contractor, wherein, the contractor duly agreeing for finally conciliated amount of Rs.30,00,000/- has declared that he will withdraw all his legal proceedings of A.P.High Court or in any other courts, if the said amount (including interest) is paid to him in token of settlement of the arbitration claims pending in courts with ref. to the subject work.

6. After careful examination of the matter, Government hereby sanction the balance amount of Rs.30,00,000/- (Rupees thirty lakhs only) towards full and final settlement payable to the contractor in respect of the work "excavation of Srisailam Right Branch canal from Km.5.00 to Km.6.00 in all soils and Nandyal shales of SRBC Circle No.I, Nandyal which was awarded to Sri K.S.Mohan Reddy, Contractor under Agt.No.35 SE/84-85, dated 25-01-1985.

7. The above sanctioned amount shall be debited to the following Head of Account:

"MH 2701 - Capital outlay on Major and Medium Irrigation - 01 Major Irrigation (Commercial) scheme included in the plan MH - 123 SRBC Scheme included in the plan GH NSP - SH 27 Canals and distributaries - 530 Major works and 531 - Other expenditure".

(Contd...3)

:: 3 ::

8. The Chief Engineer(Projects), Irrigation, Kurnool, is directed to arrange to pay the amount sanctioned at para (6) above, to Sri K.S. Mohan Reddy, Contractor, duly deducting the amounts that are recoverable on whatsoever account.

9. This order issues with the concurrence of Finance (W&P) Dept. vide their U.O.No.2488/F4(1)/09-1, dated 06-07-2009.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.P.TUCKER,
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Chief Engineer (Projects), Irrigation, Kurnool.

The Pay & Accounts Officer, Hyderabad.

The Director, Works & Accounts, A.P., Hyderabad.

Sri K.S.Mohan Reddy, Contractor,A-9, Anand Sheel Enclave, Nandi
Nagar, Road No.14, Banjara Hills, Hyd.

Copy to:

The Engineer-in-Chief, Medium Irrigation, I&CAD Department, Jalasoudha
Building, Errumanzil, Hyderabad

The I&CAD (P&B) Deptment.

The Finance(W&P) Department. (with a request to release LOC for the
sanctioned amount).

The Learned Advocate-General, High Court of A.P., High Court Buildings,
Hyderabad .

SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER.